



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0528; FRL-10001-68-Region 9]

Air Plan Approval; California; Northern Sierra Air Quality Management District; Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Northern Sierra Air Quality Management District (NSAQMD or “District”) portion of the California State Implementation Plan (SIP) under the Clean Air Act (CAA or “the Act”). This revision concerns the District’s demonstration regarding reasonably available control technology (RACT) requirements for the 2008 8-hour ozone national ambient air quality standard (NAAQS or “standards”) in the Western Nevada County ozone nonattainment area, which is under the jurisdiction of the NSAQMD. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [Insert date 30 days after the date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0528 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed

from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4122 or by email at tong.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

A. *What document did the State submit?*

On March 26, 2018, the NSAQMD adopted the "Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision for Western Nevada County 8-Hour Ozone Nonattainment Area" ("*2018 RACT SIP*"), and on June 7, 2018, the California Air Resources Board (CARB) submitted it to the EPA for approval as a revision to the California SIP. On November 29, 2018, the EPA determined that the submittal for the NSAQMD's *2018 RACT SIP* met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this document?*

There are no previous versions of this document in the NSAQMD portion of the California SIP for the 2008 8-hour ozone NAAQS.

C. *What is the purpose of the submitted document?*

Volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone, smog, and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOCs and NO_x emissions. CAA sections 182(b)(2) and (f) require that SIPs for areas designated

nonattainment for the ozone NAAQS and classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_x.

The NSAQMD is subject to this RACT SIP requirement, as the District regulates the Western Nevada County, California, ozone nonattainment area, which was classified as Moderate for the 2008 8-hour ozone NAAQS on May 4, 2016. See 81 FR 26697, 26713. Therefore, to satisfy sections 182(b)(2) and (f) of the Act, the NSAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_x within the ozone nonattainment area that it regulates.

The EPA issued a final rule on August 23, 2019, in which it reclassified Western Nevada County as “Serious” nonattainment for the 2008 ozone NAAQS. See 84 FR 44238, 44250. NSAQMD adopted its RACT SIP in 2018, when it was still classified as a Moderate ozone nonattainment area. However, in anticipation of the area being reclassified as a Serious nonattainment area for the 2008 ozone NAAQS, the NSAQMD’s *2018 RACT SIP* evaluated whether the District had any major VOC/NO_x sources emitting at least 50 tons per year (tpy), which is the major source threshold for ozone precursors for Serious ozone nonattainment areas.¹

Section III.D of the preamble to the EPA’s final rule to implement the 2008 8-hour ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states in part that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment

¹ Any stationary source that emits or has the potential to emit at least 50 tpy of VOCs or NO_x is a major stationary source in a Serious ozone nonattainment area (CAA section 182(b)(2), (f), and 302(j)).

area are covered by a specific CTG. Id. at 12278. It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. See id. and 70 FR 71612, 71652 (November 29, 2005). The *2018 RACT SIP*, including its negative declarations, provide the NSAQMD's analysis of its compliance with CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS.

The EPA's technical support document (TSD) for this action has more information about the District's *2018 RACT SIP* submittal and the EPA's evaluation thereof.

II. The EPA's Evaluation and Proposed Action

A. *How is the EPA evaluating the submitted document?*

Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO_x in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f), and 40 CFR 51.1112(a) and (b)). The NSAQMD regulates an ozone nonattainment area classified as Serious for the 2008 8-hour NAAQS (40 CFR 81.305) so the District's rules must implement RACT. Because Western Nevada County was recently reclassified as Serious nonattainment for the 2008 8-hour ozone NAAQS, and because NSAQMD's 2018 RACT SIP provided an analysis of RACT that addresses the requirements for a Serious area as well as a Moderate area in anticipation of this reclassification, we evaluated the *2018 RACT SIP* submittal to determine whether it met RACT requirements for a Serious ozone nonattainment area as well those for a Moderate ozone nonattainment area. Specifically, as part of our evaluation of the *2018 RACT SIP*, we evaluated NSAQMD's *2018 RACT SIP* using the 50 tpy threshold for major stationary sources of VOC or

NO_x in Serious ozone nonattainment areas.

As part of their RACT submittals, States should also submit for SIP approval negative declarations for CTG source categories for which the States have not adopted CTG-based regulations because they have no sources above the CTG-recommended applicability threshold, regardless of whether such negative declarations were made for an earlier SIP.² To do so, the RACT submittals should provide reasonable assurance that no sources subject to the CTGs' requirements currently exist in the relevant ozone nonattainment area.

With respect to the NSAQMD, the District's analysis must demonstrate that each major source of VOCs or NO_x in the Western Nevada County ozone nonattainment area is covered by a RACT-level rule. In addition, for each CTG source category, the District must either demonstrate that a RACT-level rule is in place, or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. EPA Office of Air Quality Planning and Standards, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," May 25, 1988 ("the Bluebook," revised January 11, 1990).
3. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," ("the NO_x Supplement"), 57 FR 55620, (November 25, 1992).

² 57 FR 13498, 13512 (April 16, 1992).

4. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: “RACT Qs & As – Reasonably Available Control Technology (RACT): Questions and Answers.”
5. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard – Phase 2,” 70 FR 71612 (November 29, 2005).
6. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,” 80 FR 12264 (March 6, 2015).

B. *Does the document meet the evaluation criteria?*

The NSAQMD's 2018 RACT SIP provides the District's demonstration that the applicable SIP for the Western Nevada County ozone nonattainment area, which is under the jurisdiction of the NSAQMD, satisfies CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. The District's conclusion is based on its analysis of SIP-approved requirements that apply to the following: (1) source categories for which a CTG has been issued, and (2) major non-CTG stationary sources of VOC or NO_x emissions.

With respect to CTG source categories, the NSAQMD determined that it only had sources subject to the CTGs covering gasoline service stations and vapor recovery operations, gasoline tank truck vapor tightness, and cutback asphalt. The District also stated that it no longer had sources subject to the miscellaneous metal coating CTG, but “...would like to keep the rule in the SIP for the 2008 standard in case a new source opens...” For each of these CTG source categories, the District's submittal provided an analysis to support the District's finding that a District rule previously approved by the EPA into the SIP as RACT for Western Nevada County remains RACT for the 2008 8-hour ozone NAAQS. Specifically, Section 5 of NSAQMD's 2018

RACT SIP provides a short discussion of the following District rules and why they continue to implement RACT: Rule 214, “Phase I Vapor Recovery Requirements;” Rule 215, “Phase II Vapor Recovery System Requirements;” Rule 227, “Cutback and Emulsified Asphalt Paving Materials;” and Rule 228, “Surface Coating of Metal Parts and Products.” We reviewed NSAQMD’s evaluation of its rules addressing the CTG source categories that are subject to RACT³ in Western Nevada County. We agree that the District’s rules are generally consistent with the CTGs and recently adopted rules in other air districts, and therefore satisfy CAA RACT requirements for the 2008 8-hour ozone NAAQS. With respect to the CTG for Miscellaneous Metal and Plastic Parts Coating, the *2018 RACT SIP* states that the District has no sources subject to Tables 3-6 of this CTG, and is adopting negative declarations for coatings covered by those tables. The *2018 RACT SIP* also states that the only source in the Western Nevada County ozone nonattainment area that was subject to the CTG’s Table 2 “Metal Parts and Products” has closed, but the District did not adopt a negative declaration for the category sources subject to Table 2, and stated its preference to leave the applicable rule -- Rule 228 -- in the RACT SIP. We agree that Rule 228’s VOC content limits are consistent with Table 2 of the CTG and the rule continues to meet RACT.

³ The NSAQMD rules and corresponding CTGs are as follows. District Rule 214, “Phase I Vapor Recovery Requirements”, corresponds to the CTGs entitled “Design Criteria for Stage I Vapor Control Systems – Gasoline Service Stations” (EPA-450/R-75-102) and “Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems” (EPA-450/2-78-051). District Rule 227, “Cutback and Emulsified Asphalt Paving Materials,” corresponds to the CTG entitled “Control of Volatile Organic Compounds from Use of Cutback Asphalt” (EPA-450/2-77-37). District Rule 228, “Surface Coating of Metal Parts and Products”, corresponds to the source category in Table 2 of the CTG entitled “Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, and Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings” (EPA-453/R-08-003). We note that while NSAQMD also reviewed Rule 215, “Phase II Vapor Recovery System Requirements,” as meeting RACT, and the EPA has approved the rule as meeting RACT, the EPA has not published a CTG for vehicle refueling operations.

Where there are no existing sources covered by a particular CTG document, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. States may also use negative declarations to certify that there are no major non-CTG sources subject to RACT, where applicable. NSAQMD's *2018 RACT SIP* contains a table listing the EPA's CTGs and annotates those CTGs for which the District is adopting a negative declaration, indicating that the District has no sources subject to the applicable CTG for the 2008 8-hour ozone NAAQS. These negative declarations are listed in Table 1 below. The District concludes that it has no sources subject to the relevant CTGs, based on a review of its permit files and emission inventory, as well as business listings and county planning records.

In addition, the *2018 RACT SIP* states "there are no major sources (that emit or have the potential to emit 50 tons or more per year) of ozone precursors located in the nonattainment area...."⁴ In another portion of its *2018 RACT SIP*, NSAQMD states "[t]he largest stationary source of ozone precursors in the Western Nevada County ozone nonattainment area is currently a gas station that emits under 2 tons of precursors per year."⁵

We reviewed CARB's emissions inventory for the NSAQMD and also performed a general internet search for potential sources subject to selected CTGs in Western Nevada County. Based on our review, we agree with the District's negative declarations in its *2018 RACT SIP*. We found that CARB's emissions inventory for the years 2014 – 2017 showed that the largest VOC and NO_x emitting stationary source in the Western Nevada County ozone

⁴ *2018 RACT SIP*, 1, 5, and 12.

⁵ *Id.* at 1.

nonattainment area emitted less than 2 tpy of VOC and NO_x. Our TSD has more information on our evaluation of the 2018 *RACT SIP*. Table 1 below summarizes the CTG categories for which NSAQMD has provided negative declarations.

Table 1 – NSAQMD Negative Declarations

EPA document No.	Title
EPA-450/2-77-008	Surface Coating of Cans
EPA-450/2-77-008	Surface Coating of Coils
EPA-450/2-77-008	Surface Coating of Paper
EPA-450/2-77-008	Surface Coating of Fabric
EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks
EPA-450/2-77-022	Solvent Metal Cleaning
EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
EPA-450/2-77-026	Tank Truck Gasoline Loading Terminals
EPA-450/2-77-032	Surface Coating of Metal Furniture
EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire
EPA-450/2-77-034	Surface Coating of Large Appliances
EPA-450/2-77-035	Bulk Gasoline Plants
EPA-450/2-77-036	Storage of Petroleum Liquids in Fixed-Roof Tanks
EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling

EPA document No.	Title
EPA-450/2-78-033	Graphic Arts-Rotogravure and Flexography
EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment
EPA-450/2-78-047	Petroleum Liquid Storage in External Floating Roof Tanks
EPA-450/3-82-009	Large Petroleum Dry Cleaners
EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry
EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry
EPA-453/R-96-007	Wood Furniture Manufacturing Operations
EPA-453/R-94-032 61 FR 44050; 8/27/96	ACT Surface Coating at Shipbuilding and Ship Repair Facilities Shipbuilding and Ship Repair Operations (Surface Coating)
EPA-453/R-97-004 59 FR 29216; 6/06/94	Aerospace MACT and Aerospace (CTG & MACT)
EPA-453/R-06-001	Industrial Cleaning Solvents
EPA-453/R-06-002	Offset Lithographic Printing and Letterpress Printing
EPA-453/R-06-003	Flexible Package Printing
EPA-453/R-06-004	Flat Wood Paneling Coatings
EPA 453/R-07-003	Paper, Film, and Foil Coatings
EPA 453/R-07-004	Large Appliance Coatings
EPA 453/R-07-005	Metal Furniture Coatings

EPA document No.	Title
EPA 453/R-08-003	Miscellaneous Metal Parts and Plastic Parts Coatings Tables 3 - 6
EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials
EPA 453/R-08-005	Miscellaneous Industrial Adhesives
EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings
EPA 452/B16-001	Oil and Natural Gas Industry
- N/A -	Major non-CTG VOC sources
- N/A -	Major non-CTG NO _x sources

C. The EPA's recommendations to further improve the RACT SIP.

Our TSD includes recommendations to improve the RACT SIP for the upcoming 2015 8-hour ozone NAAQS. These recommendations include, among other things, that the District consider amending Rule 214, "*Phase 1 Vapor Recovery*", to require recordkeeping for facilities that use the rule's throughput exemption threshold, and that the District evaluate whether additional negative declarations can be adopted for the cutback/emulsified asphalt and miscellaneous metal and plastic parts CTGs.

D. *Public comment and proposed action.*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the 2018 RACT SIP, including the negative declarations listed in Table 1, because it fulfills the RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1112(a) and (b) for the 2008 ozone NAAQS. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to

approve the submitted document, our final action will incorporate this document into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, if they meet the criteria of the Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: October 21, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

[FR Doc. 2019-23828 Filed: 11/1/2019 8:45 am; Publication Date: 11/4/2019]